

COMMISSIONERS APPROVAL

GRANDSTAFF

ROKOSCH *alstani*

THOMPSON *ak*

CHILCOTT *ge*

DRISCOLL *kd*

Present..... Commissioner Jim Rokosch,
Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Date.....November 24, 2008

Minutes: Beth Perkins

► The Board met for a public hearing for Nichols Minor Subdivision. Present were
Planner Tristan Riddell and Representative Jade Smith.

Commissioner Rokosch opened the public hearing and requested any conflicts of interest.
Hearing none, then requested the Planning Staff report be read.

Tristan presented the Staff report as follows:

**NICHOLS
TWO-LOT FIRST MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER:	Tristan Riddell
REVIEWED/ APPROVED BY:	Randy Fifrick
PUBLIC MEETINGS:	BCC Public Meeting: 9:00 a.m. November 24, 2008 Deadline for BCC action (35 working days): December 12, 2008
SUBDIVIDER:	Ben Nichols 3333 Eastside Highway Stevensville, MT 59870

REPRESENTATIVE: Pioneer Surveying
175 Lazy Pine Road
Darby, MT 59829

LOCATION OF REQUEST: The property is located south of Stevensville
off Eastside Highway (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$
of Section 10, T8N, R20W, P.M.M., Ravalli County,
Montana.

**APPLICATION
INFORMATION:**

The subdivision application was deemed complete on
October 21, 2008. Agencies were notified of the
subdivision and comments received by the Planning
Department not included in the application packet are
Exhibits A-1 through A-9 of the staff report. **This**

**subdivision is being reviewed under the
subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated October 30, 2008.

**DEVELOPMENT
PATTERN:**

Subject property:	Agricultural
North:	Low Density Residential
South:	Agricultural
East:	Agricultural
West:	Low Density Residential

INTRODUCTION

The Nichols minor subdivision is a two-lot subdivision of 79.37 acres located south of Stevensville off Eastside Highway. The proposed development is located in an area of low density residential and agricultural uses.

Staff recommends conditional approval of the subdivision proposal.

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
NOVEMBER 24, 2008**

**NICHOLS
TWO-LOT FIRST MINOR SUBDIVISION**

RECOMMENDED MOTION

That the Nichols Minor Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE
SUBDIVISION AND VARIANCE REQUEST**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture*)

Notification of Irrigation/Drainage Facilities and Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their

irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. The Webfoot and Union Ditch Companies must approve any relocation or alteration (e.g. installation of a culvert) of the irrigation canals, ditches, and pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Eastside Highway frontage of this subdivision, excepting the approved common approach. Locations of the no-ingress/egress restriction can be found on a reduced copy of the final plat. *[The applicant shall provide a reduced copy of the plat showing the no-ingress/egress zones.]* This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*

Notification of Common Access Maintenance Agreement. The common access is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Common Access Maintenance Agreement was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. *(Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat)*

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. Electric fencing is necessary to effectively prevent wildlife such as bears from entering a garden or fruit tree/shrub area, but only if the fence is properly constructed and regularly monitored and maintained to ensure proper use and function. Consult with the Montana Department of Fish, Wildlife and Parks on the proper techniques to develop and maintain an effective electric fence.
- c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. (Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash containers or storage areas.)
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.

- e. **Birdseed** is an attractant to bears, and outdoor birdfeeders are strongly discouraged from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
- j. **Compost piles** can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- k. Purchasers of lots within this subdivision must recognize that portions of this subdivision are about 1/2 mile or less from the Bitterroot River where lawful waterfowl hunting and the associated discharge of shotguns could occur from early morning until sunset, and the season can run from September into January.
- l. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- m. Residents of this subdivision must recognize that the subdivision is located within one-half of mile from the Bitterroot River and its associated

- sloughs and wetlands, where lawful waterfowl hunting and the associated **discharge of shotguns** could occur from a half-hour before sunrise through sunset, and the season can run from September into January.
- n. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture and Natural Environment*)

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Stevensville Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire Department for further information. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v)(B), RCSR, Effects on the Natural Environment*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)*

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
4. Prior to final plat approval, the subdivider shall provide a letter from the Stevensville Rural Fire District stating that the subdivider has provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdivider may provide evidence that a \$500 contribution has been submitted to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

5. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Stevensville Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*
6. The subdivider shall submit an (amount) contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. *(Effects on Local Services and Public Health & Safety)*
7. The subdivider shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount) contribution prior to final plat approval. *(Effects on Local Services)*
8. The subdivider shall install a common approach along the shared boundary of the two proposed lots. The location and construction of the common approach shall be permitted by the Montana Department of Transportation (MDT), which shall be submitted prior to final plat approval. Additionally, the final plat shall show a common approach easement in accordance with Figure 5-2-4 of the Ravalli County Subdivision Regulations (RCSR). Alternatively, the applicant shall submit approach permits from MDT stating that each lot has been granted an individual approach and the approaches are constructed in accordance with Section 5-2-2(c)(5) of the RCSR, prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*
9. The subdivider shall submit a common access maintenance agreement in accordance with Section 3-1-5(a)(xxxviii) of the RCSR, if individual accesses are not granted by MDT. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*
10. The final plat shall show a no-ingress/egress zone along the Eastside Highway frontage, excepting the approved approach(es). *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*
11. The subdivider shall submit a Master Irrigation Plan in accordance with Section 3-1-5(a)(xxxv) of the Ravalli County Subdivision Regulations and letters from both the Union and Webfoot Ditch Companies approving of the reallocation of water shares. *(Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities)*

12. The final plat shall show irrigation easements as proposed on the preliminary plat. (*Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities*)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied, if necessary.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. The features listed in RCSR Section 3-4-4(a)(ii) are required on the Final Plat. Following are specific features related to this subdivision:
 - a) Existing and proposed irrigation easements, as shown on the preliminary plat, shall be shown on the final plat. (*see also, Prerequisites to Approval D*)
 - b) A common access easement in accordance with Figure 5-2-4 of the RCSR unless individual accesses have been granted by MDT. (Condition 8)
 - c) A no-ingress/egress zone along the Eastside Highway frontage, excepting the approved approach(es). (Condition 10)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.
7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.

13. Utility availability certification(s) shall be submitted with the final plat submittal.
14. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
15. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
16. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.
17. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
18. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
19. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
20. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.) Following are specific improvements required for this subdivision:
 - Construction of a common driveway in accordance with Section 5-4-7 of the RCSR or as approved by MDT. Alternatively individual driveways constructed in accordance with Section 5-2-2(c)(5) of the RCSR should individual accesses be granted by MDT.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utility easements are located along Eastside Highway.
(Application)

2. The property is proposed to be served by Northwestern Energy and Quest Communications. (Application)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

- B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

Findings of Fact

1. The subject property is accessed from Eastside Highway. (Application)
2. Eastside Highway is a state maintained roadway that provides legal and physical access. (Application)
3. *To ensure legal and physical access to the subdivision the following requirements shall be met:*
 - *Prior to final plat approval, the subdivider shall submit final approach permits issued by the Montana Department of Transportation. (Final Plat Requirement 12)*
 - *The common access shall be constructed in accordance with Section 5-4-7 of the RCSR or as required by MDT. Alternatively individual driveways constructed in accordance with Section 5-2-2(c)(5) of the RCSR should individual accesses be approved by MDT. (Final Plat Requirement 20)*

Conclusion of Law

With the requirements of final plat approval, legal and physical access will be provided on Eastside Highway.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The applicant is required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval:

- *Construction of a common driveway in accordance with Section 5-4-7 of the RCSR or as approved by MDT. Alternatively individual driveways constructed in accordance with Section 5-2-2(c)(5) of the RCSR should individual accesses be approved by MDT. (Final Plat Requirement 20)*

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

1. In a letter dated March 13, 2008, Tracy Turek of Turek Water Right Research, LLC stated that the subject property has water shares that are maintained by the Union and Webfoot Ditch Companies. (Application)
2. The applicant has proposed to reallocate the water shares between the two newly created lots. (Application)
3. The placement of structures or the planting of vegetation other than grass within irrigation easements is prohibited. (76-3-504(1)(k) MCA).
4. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The final plat shall show all proposed irrigation easements, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *The subdivider shall submit a Master Irrigation Plan in accordance with Section 3-1-5(a)(xxxv) of the Ravalli County Subdivision Regulations and letters from both the Union and Webfoot Ditch Companies approving of the reallocation of water shares. (Final Plat Requirement 15 and Condition 11)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdividers are required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

- (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The subdivider is proposing a 30-foot irrigation easement along the Union Ditch. (Preliminary Plat)
 3. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
 4. *To ensure that the provisions of 76-3-504(1)(k) MCA would be met, the following requirement and condition could be met prior to final plat approval:*
 - *The proposed irrigation easements shall be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document filed with the final plat. (Condition 1)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Finding of Fact

Parkland dedication or cash-in-lieu is not required of minor subdivisions creating only one additional lot. Parkland dedication is also not required when proposed lots are greater than 5.0 acres in size. (RCSR Section 6-1-5 (b)(1))

Conclusion of Law

Because only one additional lot is proposed and both proposed lots are greater than 5.0 acres in size, this prerequisite is not required.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR.

2. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The proposal was submitted while under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). Resolution 2038 expired on November 7, 2008. (Application)
2. The property is located within Voluntary Zoning District 19 (recorded as Resolution 190). The proposal is compliant with the zoning district standards filed with Ravalli County. (Application)

Conclusions of Law

This proposal appears to comply with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants on the property.

Conclusion of Law

There are no covenants that apply to this property.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on December 18, 2007.

Conclusion of Law

The application appears to meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 79.35 acres will result in 2 lots, Lot 1 is proposed to be 38.43 acres and Lot 2 is proposed to be 40.92 acres in size. (Application)
2. In a letter dated August 27, 2008, State Conservationist Dave White of the Natural Resource Conservation Service confirmed that the NRCS soils staff would no longer utilize the farmland of local importance soils classification, per the request of the Bitterroot Conservation District. (Exhibit A-1)
3. During a phone conversation on September 24, 2008, Julie Ralston of the Bitterroot Conservation District summarized the reasoning for eliminating the farmland of local importance soils classification. (Exhibit A-2)
4. According to updated data (viewed November 13, 2008) from the Web Soil Survey for Ravalli County, approximately 80% of the soils located on the property are categorized as "Prime farmland if irrigated". (Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
5. The property is currently being used for agricultural production. (Application)
6. Each lot is sufficient in size to continue to be utilized for agricultural purposes. (Staff Determination)
7. The applicant submitted a Ravalli County Subdivision "Ground Disturbance and Noxious Weed" Management Plan. (Application)
8. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
9. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusions of Law:

With the mitigating conditions of approval and requirement of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The average lot size for this proposal is approximately 40.0 acres. (Application)
2. There are water shares associated with the subject property. The shares are allocated through the Webfoot and Union Ditch Companies and delivered via the Union Ditch. (Application)
3. The subdivider is proposing to distribute irrigation water to the newly created lots. (Application)
4. The Union Ditch traverses the southern and a portion of the western boundary of the subject property. (Application)
5. The applicant is proposing a 30-foot wide easement stemming from the center of the Union Ditch and extending onto the subject property. (Preliminary Plat)
6. *To ensure that the provisions of 76-3-504(1)(k) MCA would be met, the following requirement and condition could be met prior to final plat approval:*
 - *The proposed irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document filed with the final plat. (Condition 1)*
 - *The subdivider shall submit a Master Irrigation Plan in accordance with Section 3-1-5(a)(xxxv) of the Ravalli County Subdivision Regulations and letters from both the Union and Webfoot Ditch Companies approving of the reallocation of water shares. (Final Plat Requirement 15 and Condition 11)*

Conclusion of Law

With the mitigating condition of approval and requirement of final plat approval, the impacts of the subdivision on agricultural water user facilities will be reduced.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the Stevensville Rural Fire District. (Application)
2. The Stevensville Rural Fire District has adopted Fire Protection Standards, which address access, posting of addresses, and water supply requirements. The Fire District also recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Exhibit A-3)

3. In a letter dated June 30, 2008, Stevensville Rural Fire Department Fire Chief Bill Perin stated that the District has no objections to the proposal and that they would accept a \$500 per lot contribution in-lieu-of the required water supply. (Exhibit A-4)
4. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins, and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a provision recommending that houses are built to meet IRBC standards. (Condition 2)*
 - *Prior to final plat approval, the subdivider shall provide a letter from the Stevensville Rural Fire District stating that the subdivider has provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the subdivider may provide evidence that a \$500 contribution has been submitted to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 4)*
 - *The following statement shall be shown on the final plat: "The Stevensville Rural Fire District has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information". (Condition 5)*
 - *Construction of a common driveway in accordance with Section 5-4-7 of the RCSR or as approved by MDT. Alternatively individual driveways constructed in accordance with Section 5-2-2(c)(5) of the RCSR should individual accesses be granted by MDT. (Final Plat Requirement 20)*

School District

5. Notification letters were sent to the Stevensville School District requesting comments on June 16, 2008 and October 30, 2008. To date, no comments have been received from the School District. (Subdivision File)
6. It is estimated that approximately 1.0 school-aged child will be added to the Stevensville School District. (Application)
7. The cost per pupil for one year in the Stevensville School District (using an average of the Stevensville High School and Stevensville Elementary budgets), excluding capital costs, is \$8,020. Taxes from new residents are not immediately available to the school districts. (Exhibit A-5)
8. *Staff recommends that the applicant negotiate a contribution with the BCC, in consultation with the Hamilton School District, if possible, to mitigate potential impacts on the School District. (Condition 7 and Final Plat Requirement 19)*

Water and Wastewater Districts

9. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Application)

Law Enforcement and County Emergency Services (Sheriff, E-911, DES)

10. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)
11. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on June 16, 2008 and October 30, 2008. To date, no comments have been received from the Sheriff's Office. (Subdivision File)
12. The average number of people per household in Ravalli County is 2.5. (Census 2000)
13. The proposal has the potential to add an additional 5 people to Ravalli County. (Staff Determination)
14. *To mitigate impacts on local services, the subdivider shall submit an (amount) contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 6)*

Emergency Services

15. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Dept. Marcus Daly was contacted but no comments have been received to date. (Subdivision File)

Solid Waste Services

16. Bitterroot Disposal provides solid waste service to this site. (Application)
17. Notification letters were sent to Bitterroot Disposal requesting comments on June 16, 2008 and October 30, 2008. To date, no comments have been received. (Subdivision File)

Utilities

18. The property is proposed to be served by Northwestern Energy and Qwest Communications. (Application)
19. Notification letters were sent to both utility companies requesting comments on June 16, 2008 and October 30, 2008. To date, no comments have been received to date. (Subdivision File)
20. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicant shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 13)*

Roads

21. Eastside Highway provides access to the subdivision. Eastside Highway is state operated. (Application)
22. In a letter dated January 29, 2008 (Exhibit A-9), Glen Cameron of the Montana Department of Transportation states the following:
- MDT is concerned with current and future access to Eastside Highway.

- If reasonable access can be attained from existing access locations or the use of joint access locations, additional access may not be granted.
 - Any new or change in use of an existing access will require an approach permit to be approved by the MDT. Approaches need to be constructed to MDT's approach standards, meet sight distance requirements and have no negative effect on the transportation system or adjacent existing accesses.
23. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
- *The final plat shall show a no-ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approved approach(es), and a notification of the no-ingress/egress zone shall be included in the notifications document. (Final Plat Requirement 2 and Conditions 1 and 10)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)*
 - *The subdivider shall install a common approach along the shared boundary of the two proposed lots. The location and construction of the common approach shall be permitted by the Montana Department of Transportation (MDT), which shall be submitted prior to final plat approval. Additionally, the final plat shall show a common approach easement in accordance with Figure 5-2-4 of the Ravalli County Subdivision Regulations (RCSR). Alternatively, the applicant shall submit approach permits from MDT stating that each lot has been granted an individual approach and the approaches are constructed in accordance with Section 5-2-2(c)(5) of the RCSR, prior to final plat approval. (Final Plat Requirement 12 and Condition 8)*
 - *The subdivider shall submit a common access agreement in accordance with Section 3-1-5(a)(xxxviii) of the RCSR, if individual accesses are not granted by MDT. (Final Plat Requirement 14 and Condition 9)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. This proposed subdivision will add two new homes to Ravalli County. (Application, 2004 Aerial Photograph and Site Visit on 6/9/08)
2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and

individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)

3. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Ground Water Quality

4. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-6)
5. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Surface Water Features

6. There are no streams, rivers, riparian areas or wetlands on or adjacent to the property. (Application, Site Visit, GIS data)

Vegetation

7. The applicant submitted a Ravalli County Subdivision "Ground Disturbance and Noxious Weed" Management Plan. (Application)
8. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
9. The Montana Natural Heritage Program found that the State Champion Tree was located within the same sections as the subject property (Application).
10. The subdivider submitted and received a waiver from completing a Sensitive Species Report based on the fact that the State Champion Tree was not present on the property. (Exhibit A-7)
11. *To mitigate impacts on the natural environment, the following condition and requirement shall be met:*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Archaeological Resources

12. In a letter dated June 20, 2008, Damon Murdo of the Montana Historical Society (MHS) stated that if any structures over 50 years old are planned for alteration, it is recommended that the National Register of Historic Places be

notified and they be registered and a determination of their eligibility be made.
(Subdivision File)

13. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

Montana Fish Wildlife and Parks provided comments regarding this particular proposal, and recommended "Living with Wildlife" covenants specific to this proposal. (Exhibit A-8)

The property is not located within big-game winter range. (FWP)

According to the Montana Natural Heritage Program, the Gray Wolf, Western Spotted Skunk, Townsend's Big-eared Bat, Bobolink, Barn Owl, and Westslope Cutthroat Trout were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. The subdivider requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property for all species. (Exhibit A-7)

To mitigate impacts on wildlife, the following conditions shall be met:

- *The covenants shall include a living with wildlife section. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Eastside Highway. (Application)
2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Stevensville Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Application)
4. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
6. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

1. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
2. The preliminary plat and soils map indicate that the subdivision may have soils rated as "Very Limited" for road and building construction. (Application)
3. *To mitigate the impacts on public health and safety, the following conditions and requirements shall be met:*
 - *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Rokosch opened public comment.

Jade Smith stated she spoke to Glen Cameron from MDOT, who stated that MDOT will not issue an access permit prior to the applicant proposing a specific use for the property.

Commissioner Rokosch questioned the access permit and lack of development plans. Tristan stated MDOT will not approve the approach access until the Commission takes action. Jade presented the letter from Glen Cameron to the Board. Commissioner Chilcott stated he has seen MDOT take this course before.

Commissioner Rokosch closed public comment and opened Board deliberations.

Commissioner Rokosch stated from his perspective, there are two residential lots and they will need to be mitigated. Commissioner Chilcott stated nothing is required except a septic permit. Jade stated each parcel does have a septic permit. Commissioner Chilcott stated with the permits, groundwater monitoring clearly defines the building envelope. Jade pointed out on the map where the septic are and also the access. She stated there is an agricultural access on the second lot. Discussion followed regarding the approach.

Commissioner Rokosch began deliberations with the six criteria.

1. Effects on Agriculture: Commissioner Rokosch questioned the soil types. Tristan stated it is prime farmland if irrigated. Commissioner Rokosch expressed his concern with the analysis of prime soils in the valley. These are the most productive soils.

Commissioner Rokosch stated he is struggling with the lack of site plans. Tristan stated a site plan has never been required, nor should it be required, as the County is reviewing for the subdivision of parcels not the construction of buildings. Commissioner Rokosch requested any mitigation for the loss of farm land. Jade replied the current renter of the property is looking to purchase it and will continue to grow corn. She stated they are also within a voluntary zoning district. She offered no mitigation. Commissioner Rokosch stated the application is being reviewed for single family use. Jade replied there is no selection within the subdivision questionnaire for agricultural purposes. Commissioner Rokosch explained the Open Lands program and the one time offer of mitigation. Commissioner Chilcott stated it is a voluntary donation for new lots created.

Commissioner Rokosch and Commissioner Driscoll voted non-sufficiently mitigated. Commissioner Chilcott and Commissioner Thompson voted sufficiently mitigated.

2. Effects on Agricultural Water User Facilities: Commissioner Rokosch stated the plans are to divide the water rights between two lots. Tristan stated there was a letter received from Tracy Turek stating that the property has water rights from the Webfoot and Union Ditch Companies. Commissioner Driscoll questioned any other conversation of how the water is set up. Tristan stated there is a condition of requirement for the plans. There is a proposed 30 foot easement on the ditch. Jade pointed out on the map where the ditch is located. She stated she will find out how they are connected for water. Commissioner Rokosch questioned expanded language. Tristan replied it is covered in the notifications. **All voted sufficiently mitigated.**

3. Effects on Local Services: Commissioner Rokosch stated it is within Stevensville Rural Fire District and requested \$500 mitigation per lot. Discussion followed regarding new lot versus two lots for requested mitigation. Commissioner Rokosch requested an offer of mitigation. **Jade offered a contribution of \$500 for the new lot for Stevensville Fire District payable upon final plat approval.**

Commissioner Rokosch reviewed the Stevensville school district requested mitigation. He stated the amount for the school district would be about \$1,775. Jade questioned when ownership is transferred would the new owner have to pay as well. Commissioner Driscoll stated after purchase there are two years before taxes take effect in the school district. Mitigation is for the immediate impact. Jade stated her concern is this may never produce any school children. **She offered no mitigation for school district.**

Commissioner Rokosch reviewed law enforcement and County emergency services. He requested mitigation amount \$500 per new lot. **Jade offered \$300 per new lot for law enforcement and County emergency services.**

Commissioner Rokosch asked if there is any mitigation for general services for the County. He stated most offered mitigation is about \$200 to \$250. **Jade offered \$200 per new lot for general services upon final plat approval.** **All voted non-sufficiently mitigated based on the lack of mitigation offered to offset impacts on the School District.**

4. Effects on Natural Environment: Commissioner Rokosch asked if there are any proposed covenants. Tristan replied there are no new covenants.

All voted sufficiently mitigated.

5. Effects on Wildlife and Wildlife Habitat: Commissioner Rokosch stated there is a living with wildlife covenant.

All voted sufficiently mitigated.

6. Effects on Public Health and Safety: Commissioner Chilcott and Commissioner Thompson voted sufficiently mitigated. Commissioner Rokosch and Commissioner Driscoll voted non-sufficiently mitigated.

Tristan recapped the offered mitigation as follows:

\$500 for Stevensville Rural Fire District
\$300 for Public Services such as Law Enforcement and Emergency services
\$200 for general services for the County.

Tristan made a recommendation that the meeting be postponed so that the representative can discuss mitigation fees with her client. He requested to recess for fifteen minutes. Commissioner Rokosch agreed.

The Board reconvened and Jade stated she spoke to her client. She stated the owner requested meeting with Jade personally to discuss mitigation. She asked the Commissioners to outline some specific mitigation options, specifically in regards to Effects on Agriculture. Commissioner Chilcott stated one would be a covenant for agricultural purposes. She requested a continuance. **Commissioner Chilcott made a motion to continue the Public Hearing for Nichols Minor Subdivision until November 26th at 10 a.m. Commissioner Thompson seconded the motion and all voted 'aye'.**

► The Board met to adopt Resolution No. 2322 authorizing participation in the Intercap program and signatures for the Intercap loan documents for the roof with Internal Auditor Klarryse Murphy. Present were County Attorney George Corn, Civil Counsel Dan Browder and Treasurer JoAnne Johnson.

Commissioner Rokosch called the meeting to order.

Dan reviewed the interest rate with the Board. He stated the loan rate renews yearly. The calculation used for the rate is back in 1980. He stated the bond value is 100% of the face value. Discussion followed regarding rates. Commissioner Thompson asked what the total amount would be. Klarryse replied \$196,000.

Commissioner Thompson stated the bond market is volatile at the moment. To borrow, we are at 4.25% until February 2009. Dan urged caution with variable rates.

Klarryse stated there are other options such as early pay off and refinancing.

Commissioner Chilcott made a motion to approve Resolution No. 2322 authorizing participation in the InterCap program and signatures for the InterCap loan documents for the roof repair. Commissioner Driscoll seconded the motion and all voted 'aye'.

Minutes: Glenda Wiles

► The Board met for approval of request for FAA reimbursement on Airport Grant # 3-30-0037-009-2008 (the purchase of a John Deer Tractor with snow push, bucket and 3 pt hitch in the amount of \$78,581.00 with a 5% county match at \$4,136.20. The 5% match will be reduced to a county responsibility of 2 ½% due to a Montana State Aeronautics Grant which is paying for the other 2 ½%.) **Commissioner Thompson made a motion to have the Vice Chair sign the Request for Reimbursement to the FAA for the purchase of** Commissioner Driscoll seconded the motion and all voted "aye".

► The Board met for a discussion with Ron Skinner from the local Valley Veterans Service Center in regard to some accounting issues for Veterans claims. Also present was Accounting Comptroller Jana Exner. Ron asked why he must prepare a hand written copy of the marker claim when the county already receives a bill from the cemetery which has the discharge form. He stated this is a duplication and is in-efficient. Jana stated the requirement is to take the statement of expenditures keeping them in a book or log which includes name, rank, place of internment etc. Jana stated no one has ever created a log book until Bill Stephani was the Veterans Burial representative, and no one has ever requested to review this log book. Jana also noted the discharge form is attached to the claim form which is kept by accounting for a minimum of 7-years. Discussion included the federal requirements which resulted in Montana Statute which is an unfunded mandate for the Veterans Burial costs. It was agreed contact should be made with local Representatives MacLaren and Senator Shockley who are veterans in order to clean up the statute 10-2-501 – 506, and Commissioner Rokosch will contact the County Attorney's Office in regard to the proper wording of changing statute requirements and then visit with Representative MacLaren and Senator Shockley.

Ron also addressed the Veterans Advisory Board through the Governor's Office stating he would like to be a part of this Board and has asked to be appointed to this Board as a

voting member. Commissioner Driscoll will make some contact in regard to this Advisory Board as the Board concurred Ron would be an excellent worker for this Board.

► The Board met to open bids for Prescription Medications and Medical Support items. It was noted proper legal notice was ran in the paper of record for these bids. Bids received were as follows:

1. Health Care Plus Pharmacy of Hamilton:
2. Timber Ridge Pharmacy of Hamilton
3. Bitterroot Drug Pharmacy of Hamilton
4. Diamond Pharmacy and Medical Supply of PA

Commissioner Chilcott made a motion to have Lt. Leete of the Detention Center review the bids and make a recommendation to the Board with award to follow. Commissioner Thompson seconded the motion and all voted "aye".

Minutes: Beth Perkins

► The Board met for discussion and decision on Airport agricultural land lease, decision on ground lease #300 termination and lease #265 termination. Present were Airport Manager Page Gough, Airport Board member Jim Trowbridge and Administrative Assistant Glenda Wiles.

Page gave an overview on the agricultural land lease for Leonardi. He requested a one year renewal.

Lease #265 Greg Soule – Page requested termination of lease due to non-payment in five years. He stated he contacted Greg and he stated the former Airport Manager was given notice to terminate his lease and it was never done.

Lease #300 Chris Mills - Page stated he agreed to **buy back the lease for \$500** and then terminate the area. He stated \$1,200 were for the development fees.

Commissioner Chilcott made a motion to terminate Lease #265 and Lease #300 as proposed. Commissioner Driscoll seconded the motion and all voted 'aye'.

Glenda requested the lease be one year not two and not approve until all fees are paid. She stated fourth quarter is due and so are the water fees.

Commissioner Chilcott made a motion to approve the agricultural lease and rollover the contract to Ron Hale and Brien Weber for two years contingent upon payment of funds to Daly Ditches. Commissioner Driscoll seconded the motion and all voted 'aye'.

► The Board met to adopt Resolution No. 2322 authorizing participation in the Intercap program and signatures for the Intercap loan documents for the roof with Internal Auditor Klarryse Murphy. Present were County Attorney George Corn, Civil Counsel Dan Browder and Treasurer JoAnne Johnson.

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Commissioner Chilcott made a motion to terminate Lease #265 and Lease #300 as proposed. Commissioner Driscoll seconded the motion and all voted 'aye'.

Glenda requested the lease be one year not two and not approve until all fees are paid. She stated fourth quarter is due and so are the water fees.

Commissioner Chilcott made a motion to approve the agricultural lease and rollover the contract to Ron Hale and Brien Weber for two years contingent upon payment of funds to Daly Ditches. Commissioner Driscoll seconded the motion and all voted 'aye'.